

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:)	Examiner: Le, Tan
)	
Shelly Lenna Bauerly)	Group Art Unit: 3632
)	
Application Serial No. 10/763,426)	Appeal Brief under 37 CFR 41.37
)	
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REPLACEMENT BRIEF UNDER 37 CFR 41.37

Board of Patent Appeals and Interferences
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The following Replacement Brief is submitted under 37 CFR 41.37 in relation to the Notice of Defective Appeal Brief posted on January 2, 2009 for the referenced U.S. Patent Application. The Replacement Brief has been amended to correct all defects noted by the Examiner.

CERTIFICATE OF MAILING:

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— **Ronald R. Shea** —
(person mailing or transmitting correspondence)

Signature

Date

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REAL PARTY IN INTEREST

The real party in interest is the named inventor, Shelly Lenna Bauerly ("Bauerly").

RELATED APPEALS AND INTERFERENCES

None.

STATUS OF CLAIMS

Prosecution has encompassed claims 1-41. Claims 3, 33, 34 and 40 have been cancelled. Claims 5, 6, 7, 8, 9, 19, 20, 29, 30, 31, 32, 35, 36, 39 have been withdrawn pending the allowance of a generic base claim. Claims 21 and 26 have been objected to, but would be allowable if rewritten to include the limitations of their base claims and any intervening claims. Claims 1, 2, 4, 10, 11, 12, 13, 14, 15, 16, 17, 18, 22, 23, 24, 25, 27, 28, 37, 38 and 41 have been rejected. Claims 1, 2, 13, 14, 22, and 37 are being appealed.

STATUS OF AMENDMENTS

No amendment have been filed since the Final Office Action of January 1, 2008.

SUMMARY OF CLAIMED SUBJECT MATTER

All page and line numbers referenced herein are drawn from the application as originally submitted, which is presented as Exhibit 1.

The following elements are recited in Independent Claim 1:

a purse hanger (20)

See Fig. 1. Also shown without call-out number in Figs. 2, 3, 4, 5, 16 and 19. See page 1, lines 29, 31; page 2, lines 1-2, 11; page 3, line 17; page 5, lines 17, 20, 25; page 6, line 12, 28-30; page 11, lines 3, 12, 24-27; page 12, lines 15, 16, 17, 21, 31; page 14, line 31; page 15, line 1.

a rigid interface member (22)

The rigid interface member is the solid part of the purse hanger that rests above a table top. See Figs. 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16 and page 5, line 26; page 6, lines 6-19; page 7, lines 4-21. An alternative embodiment is shown in Fig. 18, the rigid interface member 25 includes a rigid frame 26 and legs 87 with protective cork or felt pads 28. A discussion directed specifically to the rigid interface member, functionality, and components thereof is found from page 7, line 4 through page 9, line 7, and detailed discussion is also found on page 10, lines 1-28 and page 12, lines 1-24. Additional references to the rigid interface member, or the operation thereof, are found on page 2, lines 11-15, 20-21; page 4, lines 17-21, lines 26-31; page 5, lines 5-6, 8-9, 17-18, 26; page 6, lines 1-4, 6-13, 18; page 9, line 22; page 11, line 26; page 13; line 11; page 15, line 1.

a planar interface area (23, 28)

See page 6, lines 6-13, page 7, lines 5-21, page 8, lines 6-7, page 9, lines 22-24, page 11 line 22 through page 12, line 24. Figures 2, 12, 13 and 18 reference the planar interface area by all out

number. The planar interface area 23 can be the area defined by a protective member such as cork, felt, etc. coating discussed on page 6, line 6. In an alternative embodiment depicted in Fig. 18, the planar interface region comprises the upper triangle (shown in phantom) touching the bottom of foot pads 28 and coextensive with the horizontal limits of the triangular column 69 defining the stable region beneath the rigid interface member.

a rigid arm (45) with a proximal segment (50) terminating at a proximal end, a distal segment terminating at a distal end (55), and a central extension disposed between a proximal segment and a distal segment

The rigid arm (45), its component parts, and its relationship to the rigid interface member are discussed in detail from page 9, line 4 through page 11, line 20, and page 5, line 30 through page 6, line 4. Additionally, the rigid arm, and features associated therewith, are described on page 2, lines 13-21; page 3, lines 1-6; page 4, lines 11-12, 20-21, 26-27; page 6, lines 1-4, 11-13; page 9, lines 4-7; page 7 line 13; page 11, lines 22-29; and page 12, lines 13-24, 28.

Within the Figures, the rigid arm (45) is depicted with reference number in Figs. 1-6, 14, 17 and 19, and is show in part without call out number in Figs. 7-8, 10-12, 15, 17 and 18. The rigid arm is discussed with specificity from page 9, line 9 through page 11, line 20. The rigid arm (45) is referenced by number in Figs. 1-6, 14, 17 and 19, and is show in part without call out number in Figs. 7-8, 10-12, 15, 17 and 18.

The "proximal segment" or "horizontal extension" (50) that couples to the neck of the rigid interface member is referenced by number in Figs. 2, 4, 5, 11,. It is show without call-out number in Figs. 1, 3, 10

The "central extension" of the rigid arm is depicted in Figs. 2, 5, 7, 8, 12, 14, 16 and 19 as the portion of the rigid arm extending from the proximal segment to the distal segment. In Fig. 19, the

central extension is depicted as a long progressively curved member extending from the "horizontal extension" (50) to the distal segment. In Figs. 2, 5, 7, 8, 12, 14, and 16, the "central extension" includes a "vertical extension" (51), and an angled member extending from the vertical extension (51) to the distal segment.

wherein the central extension curves into the distal segment which extends vertically downward from the central extension when the distal end is positioned vertically beneath the planar interface area

See Figs. 1, 2, 12, 13 and 19. See page 2, lines 13-15, page 6, 1-4, 11-13; page 11, lines 22-28, page 12, lines 9-11 and 21-24.

a flexible member (60)

See Figs. 1-6, 16, 17 and 19. A typographical error in Fig. 19 depicts this element as 63. The flexible member is properly referred to as element 60 throughout the rest of the disclosure. Page 12, line 26 through page 13, line 31 of the specification is directed specifically to the flexible member. Additionally, reference is made to the flexible member on page 2, line 16, page 3, lines 4, 18; line 4, page 8, 9; page 5, line 9, 12, 14; page 6, line 15, 17, 27, 28; page 11, line 12.

a purse engagement member (70)

This element refers to the loop of the purse holder that engages the purse strap in Figures 1-5, and 19. This element is shown without call-out number in Fig. 16. Within the disclosure the purse engagement member is also referred to as a "rigid loop" and a "purse engagement loop." This element is discussed in detail on page 14, lines 1-28. Reference is also made to this element on page 6, lines 15-17, 29-30; page 13, line 30, page 13, line 1 and page 15, lines 1-2.

The following elements are recited in Independent Claim 22

a horizontal surface (21)

See Figs. 1, 2, 3. Also shown without call out number in Figs. 13, 14 and 19. Variouslly referred to as a "horizontal surface" and a "table," "tabletop," "table surface" and "bar" within the specification, see page 1, line 9, 13-20, 29-31; page 2, lines 8, 12-13; page 3, line 24; page 5, line 26; page 6, lines 9, 18, 19, 26; page 7, line 6, 13, 17; page 11, lines 4, 25; page 12, lines 2, 5; page 13, line 11, page 14, line 31.

a purse hanger (20)

See Fig. 1. Also shown without call-out number in Figs. 2, 3, 4, 5, 16 and 19. See page 1, lines 29, 31; page 2, lines 1-2, 11; page 3, line 17; page 5, lines 17, 20, 25; page 6, line 12, 28-30; page 11, lines 3, 12, 24-27; page 12, lines 15, 16, 17, 21, 31; page 14, line 31; page 15, line 1.

a rigid interface member (22)

The rigid interface member is the solid part of the purse hanger that rests above a table top. See Figs. 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16 and page 5, line 26; page 6, lines 6-19; page 7, lines 4-21. An alternative embodiment is shown in Fig. 18, the rigid interface member 25 includes a frame 26 and legs 87 with protective cork or felt pads 28. A discussion directed specifically to the rigid interface member, functionality, and components thereof is found from page 7, line 4 through page 9, line 7, and detailed discussion is also found on page 10, lines 1-28 and page 12, lines 1-24. Additional references to the rigid interface member, or the operation thereof, are found on page 2, lines 11-15, 20-21; page 4, lines 17-21, lines 26-31; page 5, lines 5-6, 8-9, 17-18, 26; page 6, lines 1-4, 6-13, 18; page 9, line 22; page 11, line 26; page 13, line 11; page 15, line 1.

a planar interface (23, 28)

See page 6, lines 6-13, page 7, lines 5-21, page 8, lines 6-7, page 9, lines 22-24, page 11 line 22 through page 12, line 24. Figures 2, 12, 13 and 18 reference the planar interface area by all out number. The planar interface area 23 can be the area defined by a protective member such as cork, felt, etc. coating discussed on page 6, line 6. In an alternative embodiment depicted in Fig. 18, the planar interface region comprises the upper triangle (shown in phantom) touching the bottom of foot pads 28 and coextensive with the horizontal limits of the triangular column 69 defining the stable region beneath the rigid interface member.

a rigid arm (45) with a proximal segment (50) terminating at a proximal end, a distal segment terminating at a distal end (55), and a central extension extending from a the proximal segment through a first bend, and extending into the distal segment through a second bend, the central extension being oriented, at least in part, in a direction different from the proximal segment, and in a direction different from the distal segment, the proximal end being coupled to said rigid interface member (22)

The rigid arm (45) and its component parts are discussed in detail from page 9, lines 9-27, through page 11, line 20, and page 5, line 30 through page 6, line 4. Additionally, the rigid arm, and features associated therewith, are described on page 2, lines 13-21; page 3, lines 1-6; page 4, lines 11-12, 20-21, 26-27; page 6, lines 1-4, 11-13; page 9, lines 4-7; page 7 line 13; page 11, lines 22-29; and page 12, lines 13-24, 28. The rigid arm (45) is referenced by number in Figs. 1-6, 14, 17 and 19, and is show in part without call out number in Figs. 7-8, 10-12, 15, 17 and 18.

The "proximal segment" or "horizontal extension" (50) that couples to the neck of the rigid interface member is referenced in Figs. 2, 4, 5, 11. It is show without call-out number in Figs. 1, 3, 10.

The “central extension” of the rigid arm is depicted in Figs. 2, 5, 7, 8, 12, 14, 16 and 19 as the portion of the rigid arm extending from the proximal segment to the distal segment. In Fig. 19, the central extension is depicted as a long progressively curved member extending from the “horizontal extension” (50) to the distal segment. In Figs. 2, 5, 7, 8, 12, 14, and 16, the “central extension” includes a “vertical extension” (51), and an angled member extending from the vertical extension (51) to the distal segment.

wherein the rigid arm is configured to position the distal segment in a vertical orientation that is vertically aligned beneath the rigid interface member when the rigid interface member is disposed on the horizontal surface

See page 6, lines 11-13; page 9, lines 21-24, page 9, line 29 through page 10, line 28; page 11, lines 22-29, page 12, lines 13-24. See also Figs. 2 and 19 for illustration of alignment beneath the rigid interface member, and Figs. 10-16 for design features contributing to self orientation vertically beneath the rigid interface member.

a flexible member with first and second ends, said first end of said flexible member secured to said distal end of said rigid arm

See Figs. 1-6, 16, 17 and 19. A typographical error in Fig. 19 depicts this element as 63. The flexible member is properly referred to as element 60 throughout the rest of the disclosure. Page 12, line 26 through page 13, line 31 of the specification is directed specifically to the flexible member. Additionally, reference is made to the flexible member on page 2, line 16, page 3, lines 4, 18; line 4, page 8, 9; page 5, line 9, 12, 14; page 6, line 15, 17, 27, 28; page 11, line 12.

a purse engagement member (70) coupled with said second end of said flexible member

The purse engagement member 70 is the loop of the purse holder that engages the purse strap in Figures 1-5, and 19. It is also shown without call-out number 70 on Fig. 16. Within the disclosure the purse engagement member is also referred to as a "rigid loop" and a "purse engagement loop." This element is discussed in detail on page 14, lines 1-28. Reference is made to this element on page 6, lines 15-17, 29-30; page 13, line 30, page 13, line 1 and page 15, lines 1-2.

The following elements are recited in Independent Claim 37:

a purse hanger (20)

See Fig. 1. Also shown without call-out number in Figs. 2, 3, 4, 5, 16 and 19. See page 1, lines 29, 31; page 2, lines 1-2, 11; page 3, line 17; page 5, lines 17, 20, 25; page 6, line 12, 28-30; page 11, lines 3, 12, 24-27; page 12, lines 15, 16, 17, 21, 31; page 14, line 31; page 15, line 1.

a rigid interface member (22)

The rigid interface member is the solid part of the purse hanger that rests above a table top. See Figs. 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16 and page 5, line 26; page 6, lines 6-19; page 7, lines 4-21. Fig. 18 discloses an alternative embodiment of a rigid interface member 25 which includes a frame 26 and legs 87 with protective cork or felt pads 28. A discussion directed specifically to the rigid interface member, functionality, and components thereof is found from page 7, line 4 through page 9, line 7, and detailed discussion is also found on page 10, lines 1-28 and page 12, lines 1-24. Additional references to the rigid interface member, or the operation thereof, are found on page 2, lines 11-15, 20-21; page 4, lines 17-21, lines 26-31; page 5, lines 5-6, 8-9, 17-18, 26; page 6, lines 1-4, 6-13, 18; page 9, line 22; page 11, line 26;; page 13; line 11; page 15, line 1.

a planar interface area (23, 28)

See page 6, lines 6-13, page 7, lines 5-21, page 8, lines 6-7, page 9, lines 22-24, page 11 line 22 through page 12, line 24. Figures 2, 12, 13 and 18 reference the planar interface area by all out number. The planar interface area 23 can be the area defined by a protective member such as cork, felt, etc. coating discussed on page 6, line 6. In an alternative embodiment depicted in Fig. 18, the planar interface region comprises the upper triangle (shown in phantom) touching the bottom of foot pads 28 and coextensive with the horizontal limits of the triangular column 69 defining the stable region beneath the rigid interface member.

a bent rigid arm (45) with a proximal segment (50) terminating at a proximal end, and a distal segment terminating at a distal end (55), wherein the proximal segment is coupled to said interface member (22) in an orientation substantially parallel to the planar interface area.

The rigid arm (45) and its component parts are discussed in detail from page 9, lines 9-27, through page 11, line 20, and page 5, line 30 through page 6, line 4. Additionally, the rigid arm, and features associated therewith, are described on page 2, lines 13-21; page 3, lines 1-6; page 4, lines 11-12, 20-21, 26-27; page 6, lines 1-4, 11-13; page 9, lines 4-7; page 7 line 13; page 11, lines 22-29; and page 12, lines 13-24, 28. The rigid arm (45) is referenced by number in Figs. 1-6, 14, 17 and 19, and is show in part without call out number in Figs. 7-8, 10-12, 15, 17 and 18.

The "proximal segment" or "horizontal extension" (50) that couples to the neck of the rigid interface member is referenced by number in Figs. 2, 4, 5, 11. It is show without call-out number in Figs. 1, 3, 10.

The "central extension" of the rigid arm is depicted in Figs. 2, 5, 7, 8, 12, 14, 16 and 19 as the portion of the rigid arm extending from the proximal segment to the distal segment. In Fig. 19, the central extension is depicted as a long progressively curved member extending from the "horizontal

extension” (50) to the distal segment. In Figs. 2, 5, 7, 8, 12, 14, and 16, the “central extension” includes a “vertical extension” (51), and an angled member extending from the vertical extension (51) to the distal segment.

the rigid arm being configured such that the distal segment is aligned in a vertical orientation vertically beneath the planar interface area when the planar interface area is horizontal.

See page 6, lines 11-13; page 9, lines 21-24, page 9, line 29 through page 10, line 28; page 11, lines 22-29, page 12, lines 13-24. See also Figs. 2 and 19 for illustration of alignment beneath the rigid interface member, and Figs. 10-16 for design features contributing to self orientation vertically beneath the rigid interface member.

and wherein the distal end (55) comprises a securement member (61)

“Securement member” 61 is also called the “upper flexible member coupling” within the disclosure. See page 6, lines 15-16, page 9, lines 26-27, page 12, lines 27-28, page 13, lines 15-18. This element is illustrated with call out number 61 in Figs. 2, 5, 6, 16, 17 and 19.

a flexible member (60) with first and second ends, said first end of said flexible member secured to the securement member (61)

See Figs. 1-6, 16, 17 and 19. A typographical error in Fig. 19 depicts this element as 63. The flexible member is properly referred to as element 60 throughout the rest of the disclosure. Page 12, line 26 through page 13, line 31 of the specification is directed specifically to the flexible member. Additionally, reference is made to the flexible member on page 2, line 16, page 3, lines 4, 18; line 4, page 8, 9; page 5, line 9, 12, 14; page 6, line 15, 17, 27, 28; page 11, line 12.

a purse engagement member (70) coupled with said second end of said flexible member

The purse engagement member (70) refers to the loop of the purse holder that engages the purse strap in Figures 1-5, and 19. Also shown without call-out number 70 on Fig. 16. Within the disclosure the purse engagement member is also referred to as a "rigid loop" and a "purse engagement loop." This element is discussed in detail on page 14, lines 1-28. Reference is also made to this element on page 6, lines 15-17, 29-30; page 13, line 30, page 13, line 1 and page 15, lines 1-2.

The following elements are recited in dependent claim 2:

purse hanger (20)

See Fig. 1. Also shown without call-out number in Figs. 2, 3, 4, 5, 16 and 19. See page 1, lines 29, 31; page 2, lines 1-2, 11; page 3, line 17; page 5, lines 17, 20, 25; page 6, line 12, 28-30; page 11, lines 3, 12, 24-27; page 12, lines 15, 16, 17, 21, 31; page 14, line 31; page 15, line 1.

distal end of said rigid arm (45)

The rigid arm (45) is depicted and identified by call out number in Figs. 2, 3, 4, 14 and 16. An alternative embodiment of a rigid arm is disclosed and identified by call out number in Fig. 19. The rigid arm is further depicted without call out number in its entirety in Figs. 1, 11, 12, and 18. The rigid arm is specifically discussed in detail from page 9, line 4 through page 11, line 20, and is discussed in some detail on page 5, line 30 through page 6, line 4. Additionally, the rigid arm, and features associated therewith, are described on page 2, lines 13-21; page 3, lines 1-6; page 4, lines 11-12, 20-21, 26-27; page 6, lines 1-4, 11-13; page 9, lines 4-7; page 7 line 13; page 11, lines 22-29; and page 12, lines 13-24, 28.

The distal end of the rigid arm is identified by call out number in Figs. 2, 5, 6, 16 and 19. The distal end of the rigid arm is discussed, inter alia, on page 2, lines 14-16; page 3, line 5; page 5, lines 30 through page 6, line 2, lines 11-15; page 9, lines 24-25; page 11, line 2.

a planar interface area (23, 28)

See page 6, lines 6-13, page 7, lines 5-21, page 8, lines 6-7, page 9, lines 22-24, page 11 line 22 through page 12, line 24. Figures in which this element is numbered include Figs. 2, 12, 13 and 18, the planar interface area 23 is the area defined by a protective member such as cork, felt, etc. coating discussed on page 6, line 6. In the alternative embodiment of Fig. 18, planar interface region is illustrated by the upper triangle (shown in phantom) touching the bottom of foot pads 28 and coextensive with the horizontal limits of the triangular column 69 defining the stable region beneath the rigid interface member.

geometric center of said planar interface area

Page 11, lines 4-6, page 12, lines 13-24, Figs. 1, 3 and 19.

The following elements are recited in dependent claim 13

wherein the first end of the flexible member (60)

See Figs. 1-6, 16, 17 and 19. A typographical error in Fig. 19 depicts this element as 63. The flexible member is properly referred to as element 60 throughout the rest of the disclosure. Page 12, line 26 through page 13, line 31 of the specification is directed specifically to the flexible member. Additionally, reference is made to the flexible member on page 2, line 16, page 3, lines 4, 18; line 4, page 8, 9; page 5, line 9, 12, 14; page 6, line 15, 17, 27, 28; page 11, line 12.

is coupled to the distal (55) end of the rigid arm (45)

The rigid arm (45) and its component parts are discussed in detail from page 9, lines 9-27, through page 11, line 20, and page 5, line 30 through page 6, line 4. Additionally, the rigid arm, and features associated therewith, are described on page 2, lines 13-21; page 3, lines 1-6; page 4, lines 11-12, 20-21, 26-27; page 6, lines 1-4, 11-13; page 9, lines 4-7; page 7 line 13; page 11, lines 22-29; and page 12, lines 13-24, 28. The rigid arm (45) is referenced by number in Figs. 1-6, 14, 17 and 19, and is shown in part without call out number in Figs. 7-8, 10-12, 15, 17 and 18. The distal end (55) of the rigid arm is designated by call out numbers in Figs. 2, 5, 6, 17 and 19.

by a swivel joint (61)

See Figs. 2, 5, 6, 16, 17 and 19. For specific teaching within the specification, see page 13, lines 13-18 and 26-30.

The following elements are recited in dependent claim 14

wherein the second end of the flexible member (60)

See Figs. 1-6, 16, 17 and 19. A typographical error in Fig. 19 depicts this element as 63. The flexible member is properly referred to as element 60 throughout the rest of the disclosure. Page 12, line 26 through page 13, line 31 of the specification is directed specifically to the flexible member. Additionally, reference is made to the flexible member on page 2, line 16, page 3, lines 4, 18; line 4, page 8, 9; page 5, line 9, 12, 14; page 6, line 15, 17, 27, 28; page 11, line 12.

is coupled to the purse engagement member (70)

The purse engagement member (70) refers to the loop of the purse holder that engages the purse strap in Figures 1-5, and 19. Also shown without call-out number 70 on Fig. 16. Within the disclosure the purse engagement member is also referred to as a "rigid loop" and a "purse engagement loop." This element is discussed in detail on page 14, lines 1-28. Reference is also made to this element on page 6, lines 15-17, 29-30; page 13, line 30, page 13, line 1 and page 15, lines 1-2.

by a swivel joint (62)

See Figures 2, 5, 16, 17 and 19. For specific teaching within the specification, see page 13, lines 13-18 and 26-30.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1-2, 13-14, 22 and 37 are unpatentable under 35 U.S.C. § 103 over G.B. Patent No. 2,253,998 to Lurie et al. in view of JP 10-113275 to Omura.

Independent Claims 1 and 22 have been rejected on the grounds that Lurie et al teaches a hanger device for hanging handbags, purses or the like (Figs. 1-4) from a horizontal surface, comprising a rigid interface member defining a planar interface area (12); a rigid arm with a proximal segment terminating at proximal end 19, a distal segment 20, 21, 22, 23, 15) terminating at distal end 21, 22, 23, 15, a centrally extension (a bend or curve between 13 and 20) disposed between proximal segment and a distal segment. wherein the proximal end is coupled with the rigid interface member, the proximal end being in a orientation substantially parallel to the planar interface area and curving into the central extension, and wherein the central extension curves into the distal segment which extends vertically downward (20) from the central extension when the distal end is positioned vertically beneath the planar interface area. Note that the distal end in this case, the examiner considers as segment (21, 22, 23, 15 upon which a handbag, purse or the like can be supported or secured); and further on the grounds that Omura teaches the hanger device with a flexible member (6) having a first end coupled to the distal end of the rigid arm (3) and a second end coupled to a purse engagement member (8). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a flexible member of Omura with a first end coupled to the distal end of the rigid arm and a second end coupled to a purse engagement member.

Claim 2 has been rejected on the ground that Lurie, as modified, teaches the distal end of the rigid arm being oriented vertically beneath the geometric center of said planar interface area.

Claim 13 has been rejected on the ground that Lurie et al., when modified by the flexible member of Omura, teaches the first end of the flexible member (6, Omura) being coupled to the distal end of the rigid arm by a swivel joint (7). Note that the examiner considers the ring 7 of Omura is a swivel joint since the ring 7 of Omura is capable of turning or pivoting allowing the flexible member and thus the handbag/purse to turn around in a horizontal plane.

Claim 14 has been rejected on the ground that Lurie et al., when modified by the flexible member of Omura, teaches the second end of the flexible member being coupled to the purse engagement member by a swivel joint (Omura, 9). The examiner also considers the ring 9 of Omura is a swivel joint since the ring 9 of Omura is capable of turning or pivoting allowing the flexible member and thus the handbag/purse to turn around in a horizontal plane.

Claim 37 has been rejected on the ground recited in conjunction with claims 1 and 22, except that the central extension in this case is element 20.

ARGUMENTS

Rejections under 35 U.S.C. § 103(a) over GB Patent No. 2,253,998 to Lurie in view of JP 10-113275 to Omura.

REVIEW OF PRIOR ART CITED IN REJECTION

GB 2,253,998 to Lurie, submitted herewith as Exhibit 4, is directed to a purse hanger. Figures 1, 2 and 6 of Lurie disclose a purse hanger including a rigid interface member ("housing" 12) resting on a table, and a rigid arm ("elongated shaft" 13) extending from the housing outward parallel to the counter or table top, and then bending downward to form a "support arm 14" (Lurie, page 6). The Lurie purse hanger functions by a "zero moment" design in which the center of gravity of a purse is aligned beneath the rigid interface member. To prevent the purse from sliding off the tip, the *"Support arm 14 is deflected upwardly into a hook 15 upon which handbag 11 is hung"* (Lurie, page 6).

Japanese Application 10-113275 JP to Omura, submitted herewith as Exhibit 6, is directed to a purse hanger including a rigid arm ("iron bar," element 3) having a proximal end coupled with a rigid interface member (the "support backing" 1) by means of a "pivot" 5 including a "bearing, ball shaft" 2, and a distal end coupled with the flexible member ("connection tool" 6) by upper flexible member coupling ("connection link" 7). The proximal end of the flexible member coupled with the distal end of the rigid arm. The distal end of the flexible member is coupled to a rigid loop ("ring loop" 8) which is configured to detachable attach to a purse strap. The rigid arm of Omura is straight, exhibiting no curvature. A "stopper" 4 is formed on the proximal end of the rigid arm adjacent the "pivot" 5. The stopper is positioned to engage the bottom surface of the rigid interface member 1 during a pivot process, thereby limiting the pivot range of the rigid arm relative to the

rigid interface member (hereinafter the "pivot range") to 90 degrees. A verified translation of Omura is presented in Exhibit 7.

According to the laws of physics, when the rigid interface member of Omura rests on a horizontal surface, gravity will cause the rigid arm to orient itself in a vertical orientation. The rigid arm extends downward adjacent the edge of a table top or equivalent surface member. The short distance from the edge of the table (Omura, Fig. 4) to the pivot forms a destabilizing moment arm which, when operated upon by the downward force of the purse and the weight of purse hanger components overhanging the table edge, exerts a counter-clockwise moment (relative to Fig. 4) functioning to destabilize the purse hanger from the table top (hereinafter "destabilizing moment.")

Because the rigid arm of Omura is straight, the tensile axis of force extending through the rigid arm oriented vertically from the link 7 to the pivot 5. Accordingly, the Omura embodiment does not stabilize a purse by positioning the center of gravity of a purse beneath a table top. Rather, any functionality Omura may enjoy is limited to the extent to which the rigid interface member disposed above the table top is heavy enough to exert a clockwise moment (according to the orientation of Fig. 4—hereinafter, more generally, a "stabilizing moment,") greater than the destabilizing moment.

Omura was filed in 1998, roughly six years subsequent to the September 1992 filing date of Lurie, and had the benefit of the Lurie disclosure. Nevertheless, there is nothing disclosed within Omura, nor intuitively obvious from the design or functionality of Omura that would lead one to orient the distal end of the rigid arm of Omura beneath the table top. The stability of Lurie is achieved through a 'zero-moment' alignment of forces beneath the table top, and beneath the rigid interface member. The stability of Omura is a 'sum-of-the-moments' design, requiring that the rigid

interface member exerts a greater stabilizing force than the destabilizing force exerted by the purse overhanging the table edge.

DISCUSSION OF INDEPENDENT CLAIMS 1, 22 and 37

Claim 1 recites, in part:

a rigid arm with a proximal segment terminating at a proximal end, **a distal segment terminating at a distal end**, and a central extension disposed between a proximal segment and a distal segment, wherein the proximal end is coupled with the rigid interface member, the proximal segment being in a orientation substantially parallel to the planar interface area and curving into the central extension, **and wherein the central extension curves into the distal segment which extends vertically downward from the central extension** when the distal end is positioned vertically beneath the planar interface area; and,
a flexible member with a first end coupled to the distal end of the rigid arm, and a second end coupled to a purse engagement member

Independent Claim 22 recites, in part:

a rigid arm with a proximal segment terminating at a proximal end, **a distal segment terminating at a distal end**, and a central extension extending from a the proximal segment through a first bend, and extending into the distal segment through a second bend, the central extension being oriented, at least in part, in a direction different from the proximal segment, and in a direction different from the distal segment, the proximal end being coupled to said rigid interface member, **wherein the rigid arm is configured to position the distal segment in a vertical orientation that is vertically aligned beneath the rigid interface member when the rigid interface member is disposed on the horizontal surface**.
a flexible member with first and second ends, said first end of said flexible member secured to said distal end of said rigid arm;

Independent Claim 37 recites, in part:

a bent rigid arm with a proximal segment terminating at a proximal end, and **a distal segment terminating at a distal end**, wherein the proximal segment is coupled to said interface member in an orientation substantially parallel to the planar interface area, **the rigid arm being configured such that the distal segment is aligned in a vertical orientation vertically beneath the planar**

interface area when the planar interface area is horizontal, and wherein the distal end comprises a securement member;

a flexible member with first and second ends, said first end of said flexible member secured to the securement member

PLAIN ERROR IN CHARACTERIZING THE PRIOR ART: A MID POINT IS NOT THE DISTAL END

Independent Claims 1 and 22 recited above include the limitation wherein the flexible member is coupled to the *distal end* of the rigid arm, and Claim 37 recites that a flexible member is coupled to a securement member which is coupled to the *distal end* of a bent rigid arm. Within the Office Action, it was suggested that the flexible member of Omura, when hung from the hook member of the rigid arm of Lurie, disclosed these elements. The ground for rejection relied on the determination that "the distal end in this case, the examiner considers as segment 21, 22, 23 15 upon which a handbag, purse or the like can be supported or secured." (Office Action, January 10, 2008, page 2, last line through page 3, first two lines). Exhibit 2. A similar reason was advanced within the Office Action of Sept. 28, 2007, "Note that the distal end in this case, the Examiner considers as a hook segment (V-shaped) 23, 15, upon which a handbag, purse, or the like, can be supported or secured." (Office Action of Sept. 28, 2007, page 3, lines 6-7). Exhibit 3. Both quotes are drawn from Lurie, page 7, lines 6-14, which can be best understood further referring to Fig. 2 of Lurie.

"Support shaft 13 depends downwardly forming support arm 14 which is in a planar relationship with support shaft 13 (FIGURE 3). Support arm 14 is comprised of segments 20, 21 and hook 15. Segment 20 of support arm 14 is perpendicular to support shaft 13. Support arm 14 is deflected at 22 separating segments 20 and 21 whereby segment 21 of support arm 14 is oriented beneath housing 12. Segment 21 of ***support arm 14 depends upwardly at 23 forming hook 15 upon which a handbag, purse or the like can be supported (FIGURE 1).***" (Lurie, page 7, lines 6-14).

The "hook 15" described in Lurie, however, is not formed at the distal end of the rigid arm of Lurie. Rather, it is formed by the intersection of two segments of the rigid arm of Lurie.

Notwithstanding the interpretation, within the Office Action, of the term “distal end” in Independent Claims 1, 22 and 37, as previously noted on page 10 of Applicant’s response of October 11, 2007, Merriam-Webster’s Collegiate Dictionary, Tenth Edition, Copyright 2000, Springfield Mass. (hereinafter “Merriam-Webster”) defines “distal” as “situated away from the point of attachment or origin of a central point, esp. of the body” (p. 336). Merriam Webster further defines “end” as “a point that marks the extent of something,” and “the point where something ceases to exist,” (p. 380). In view of the foregoing definitions:

1) Under no construction of the English language can the crux of the V-shaped element of the rigid arm of the Lurie purse hanger be defined as the “distal end”, as suggested in both the Office Actions of September 28, 2007 and January 10, 2008.

2) Under no construction of the English language can four separate elements of Lurie, “21, 22, 23 15 upon which a handbag, purse or the like can be supported or secured” (Office Action, January 10, 2008”) be construed as the distal end or the distal segment. (See Fig. 2 of Lurie). Moreover, none of the four elements 21, 22, 23 or 15 cited by the Examiner display a vertical orientation.

As defined both by the dictionary, and by any reasonable definition, the distal segment terminating in the distal end (“the point where something ceases to exist,”) of the rigid arm of Lurie is the portion of the arm pointing at an upward angle *after* the V-shaped bend of Lurie. Appellant respectfully submits, therefore, that the rejection was predicated upon *plain error* by the Examiner, and that this element recited in the independent Claims are not present in Lurie, Omura, nor their combination. Appellant further submits that the Examiner’s confusion in the matter is further evidence that this element is not obvious.

PLAIN ERROR IN CHARACTERIZING THE PRIOR ART: HORIZONTAL IS NOT THE SAME AS VERTICAL

Independent Claims 1, 22 and 37 all include the limitation wherein the distal segment of the rigid arm is aligned or oriented vertically beneath the rigid interface member. The Office Action recited, as representative of these three claims, the element from Claim 1 ***"wherein the central extension curves into the distal segment which extends vertically downward*** from the central extension when the distal end is positioned vertically beneath the planar interface area," and suggested that Lurie includes the element.

Appellant respectfully submits respectfully submits that the Examiner's characterization of Lurie is, prima facie, simply wrong, lacking rigor and credibility, and inconsistent with the plain meaning of the English language. Of the five elements of the Lurie rigid arm, 20, 21, 22, 23 and 15, cited by the Examiner on page 2 of the Office Action of January 10, 2008, only one, element 20, displays a vertical orientation, and this element is adjacent the table top, as seen in Fig. 2 and discussed on page 7, lines 9-10 of Lurie. It is not beneath the rigid interface member of Lurie. No segment of the rigid arm of Lurie disposed beneath the rigid interface member is oriented vertically, and the distal segment of the rigid arm of Lurie bends at an *upward* angle. *"Support arm 14 is deflected upwardly into a hook 15 upon which handbag 11 is hung"* (Lurie, page 6, italics and bold added). As noted above, independent claim 1 includes the limitation of a "distal segment which extends vertically downward." Claim 22 similarly recites "wherein the rigid arm is configured to position the distal segment in a vertical orientation," and claim 37 recites wherein "the rigid arm being configured such that the distal segment is aligned in a vertical orientation."

Therefore, even assuming, arguendo, that the 'V-Shaped' segment of the rigid arm of Lurie somehow corresponds to the "distal end" recited in Claim 1, as suggested by the Examiner, the basic

laws of calculus (max-min theory) require that the slope of the rigid arm of Lurie is zero (0) at the V-crux (the lowest point) of the rigid arm of Lurie. This mathematically requires that the crux (bottom) of the V-shaped bend of the rigid arm of Lurie is exactly horizontal, not vertical. No segment of the Lurie rigid arm beneath the Lurie rigid interface member is vertical, as recited in independent claims 1, 22 and 37. The distal segment of Lurie is oriented at an upward angle.

The Examiner proposes hanging the flexible member of Omura from the V-crux of the Lurie rigid arm, a section that is exactly horizontal. Under no construction of the English language can horizontal mean vertical. They are as distinct from each other as is geometrically possible in Cartesian mathematics. To reject independent claims 1, 22 and 37 as obvious over Lurie in view of Omura, predicated on the logic that vertical and horizontal mean the same thing, is to do violence to the English language, and to the entire field of geometry.

Because neither Lurie, Omura, nor their combination disclose or suggest a rigid arm bending into a distal segment configured to orient itself vertically beneath the rigid interface member in operation, as recited in claims 1, 22 and 37, even if Lurie and Omura could somehow be combined in a manner suggested by the examiner, their combination still would not establish a prima facie case of obviousness. The rejection is therefore predicated on *plain error* by the Examiner. In view of this plain error, Appellant respectfully submits that independent Claims 1, 22 and 37 stand in condition of allowance over the cited art.

NO PRIMA FACIE CASE FOR OBVIOUSNESS

A rigid arm bending into a vertical alignment beneath the rigid interface area is not found in either Lurie or Omura. It is a novel concept disclosed only in the Application under appeal. The fact

that the Appellant's design may seem simple in the hindsight of the Examiner is not grounds for rejection under 35 U.S.C. § 103.

In the instant application, the examiner has done little more than cite references to show that one or more elements or subcombinations thereof, when each is viewed in a vacuum, is known. The claimed invention, however, is clearly directed to a combination of elements. That is to say, appellant does not claim that he has invented one or more new elements but has presented claims to a new combination of elements. To support the conclusion that the claimed combination is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed combination *or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.* . . . Based upon the record before us, we are convinced that the artisan would not have found it obvious to selectively pick and choose elements or concepts from the various references so as to arrive at the claimed invention without using the claims as a guide. *It is to be noted that simplicity and hindsight are not proper criteria for resolving the issue of obviousness.*"

Ex parte Clapp, 227 USPQ 972, 973 (B.P.A.I. 1985), italics and bold added for emphasis.

"There was no suggestion in the prior art to provided Deminski with the motivation to design the valve assembly so that it would be removable as a unit. The board argues that if Peacock had followed the "common practice" of attaching the valve stem to the valve structure, then the valve assembly would be removable as a unit. *The only way the board could have arrived at its conclusion was through hindsight analysis by reading into the art Deminski's own teachings. Hindsight analysis is clearly improper, since the statutory test is whether the subject matter as a whole would have been obvious at the time the invention was made.*"

In re Deminski 230 USPQ 313 at 316, Decided July 8, 1986.

COMBINATION TEACHING AWAY FROM STATED PURPOSE

The combination of Lurie and Omura, as suggested by the Examiner, teaches away from a stated purpose of the Application recited on page 2 of the Application.

"Prior art purse hangers that are carried in a purse are easily lost within the purse, and difficult to find among other various items stored within a purse . . .

There remains therefore a need for a purse holder that can easily be located without becoming lost in the purse of a user."

(Application, Page 2, lines 1-6, Exhibit 1).

The limitations recited in Claims 1, 22 and 37 of the Application satisfy this stated purpose by coupling the flexible member to the rigid arm, so that a user can, by feel, find the rigid arm and rigid interface member of the purse hanger. The Office Action of January 10, 2008 suggests that the flexible member of Omura can be somehow suspended from the rigid arm of Lurie. However, the design would be unworkable, and would fail to satisfy the stated purpose recited above. Figs. 1 and 3 of Omura disclose a ring 7 functioning as a connection link between the flexible member 6 of Omura and the rigid arm 3 of Omura. The rigid arm of Lurie is a rigid cylindrical wire member. Assuming, *arguendo*, that the wire ring 7 (Figs. 1, 3) of Omura were slid onto the distal end 15 of the rigid wire arm of Lurie (Lurie, Fig. 2), and dangled from the “V-hook” 23, the wire ring of Omura would be free to slide up and down the rigid wire arm of Lurie. When in use, gravity would keep the wire ring 7 of Omura in the V-hook of Omura. However, if a user were to store the rigid interface member 12 of Lurie (Fig. 2) within a purse, the Omura ring 7 would be free to slide off the distal end of Lurie, requiring the user to rummage about her purse to locate the Lurie portion of this combination. No design features have been cited by the Examiner to prevent this problem when attempting to combine the teachings of Lurie and Omura. Accordingly, even if Lurie and Omura could somehow be combined in a manner suggested by the Examiner, their combination would be teaching away from the stated purposes achieved by the elements recited in independent claims 1, 22 and 37. Referring to the *United States v. Adams*, 383 U.S. 39, 40 (148 USPQ 479, 1966), the Supreme Court has recently reaffirmed in *KSR International Co. v. Teleflex, Inc* the implication of combinations that are teaching away from the claimed invention.

“The Court relied upon the corollary principle that when the prior art teaches away from combining certain known elements, discovery of a successful means of combining them is more likely to be nonobvious.”

KSR International Co. v. Teleflex Inc., 82 USPT2d 1385 at 1395. In light of this ruling, the fact that the combination of Lurie and Omura teach away from the claimed invention is sufficient, by itself, to rebut any conclusion of obviousness.

LONG FELT MARKET NEED

US Patent 2,064,133 to Von Schroeder (hereinafter “Von Schroeder”), was disclosed in the Information Disclosure Statement submitted March 8, 2004, and considered by the Examiner on January 3, 2006. Von Schroeder is directed to a purse hanger, and issued December 15, 1936. Accordingly, purse hangers have been part of the market economy of the United States since at least 1936. Nevertheless, until the present application, no prior art of any nation discloses a functional purse hanger that can be located in a user’s purse by ‘feel’ by tracing a flexible connector to the rigid interface member.

Referring to the *Gram v. John Deere Co. of Kansas City*, 383 U.S. 1 [148 USPQ 459] (1966), the Supreme Court recently reaffirmed in *KSR International Co. v. Teleflex, Inc* that long felt market needs are evidence of nonobviousness.

“In *Gram v. John Deere Co. of Kansas City*, 383 U.S. 1 [148 USPQ 459] (1966) the Court set out a framework for applying the statutory language of § 103, language itself based on the logic of the earlier decision in *Hotchkiss v. Greenwall*, 11 How. 248 (1851), and its progeny. See 383 U.S., at 15-17. The analysis is objective:

“Under § 103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long felt but unresolved needs, failure of others, etc. might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented.” *Id.* At 17-18

While the sequence of these questions might be reordered in any particular case, the factors continue to define the inquiry that controls.”

KSR International Co. v. Teleflex Inc. USPQ2d 1385 at 1391. Appellant submits that this long felt market need demonstrates the nonobviousness of the subject matter recited in independent claims 1, 22 and 37.

NO MOTIVATION TO COMBINE

The 1992 Lurie disclosure presents a 'zero moment' design wherein the center of gravity of the purse is aligned with the rigid interface member. Lurie did not anticipate, nor seek to address the problem of finding a purse hanger stored in a purse between uses.

The 1996 Omura disclosure does not disclose or suggest a "zero moment" design aligning the center of gravity of the purse beneath the rigid interface member, even though the Lurie disclosure was available to Omura. Rather, the design of the Omura apparatus requires that, to support a purse, the moment exerted by the weight of the rigid interface member (the stabilizing moment, clockwise with respect to Omura Fig. 4) must be greater than the destabilizing moment exerted by the weight of the purse (counter clock wise with respect to Omura Fig. 4). To attempt to position the distal end of the rigid arm ("iron bar" 3) of Omura beneath the table would move the Omura purse further from the table edge, increasing the destabilizing moment, decreasing the stabilizing moment, thereby further destabilizing the Omura purse hanger.

Other than the raw concept of a "purse hanger," there are no design goals common to Lurie and Omura. In view of this distinction, Appellant respectfully submits that no motivation to combine the teachings of Omura and Lurie can be divined from either of these disclosures, and that any such motivation can therefore only be read into them by the Examiner. This principle is illustrated, for example, in Heidelberg Druckmaschine AG v. Hantscho Commercial Products, Inc., cited below:

When the patented invention is made by combining known components to achieve a new system, the prior art must provide a suggestion or motivation to make such a combination.

Heidelberger Druckmaschinen AG v. Hantscho Commercial Products, Inc., 30 USPQ 2d 1377, 1379-80 (Fed. Cir. 1994).

Because the two purse hangers operated on different theories, one on a “zero moment” design, and the other on a counter-balance device to overcome the moment exerted by the purse, the technological reasons to combine these patents are less than obvious. The fact is, Lurie was available when the Omura application was filed, but it was not referenced, nor was there any suggestion of utilizing a zero moment design. Apart from the general goal of supporting a purse, there is not a single goal of the Omura design common to the goals achieved by the Lurie design. In view of this fact, neither Omura nor Lurie can be construed as recite a motivation to combine them. The bare fact that they are both purse hangers is not a motivation.

For at least these reasons, Applicant respectfully submits that independent Claims 1, 22 and 37 stand in condition for allowance.

DISCUSSION OF DEPENDENT CLAIM 2

Claim 2 recites,

The purse hanger according to claim 1 wherein the distal end of said rigid arm is oriented vertically beneath the geometric center of said planar interface area.

Neither Lurie nor Omura disclose or suggest the limitation “wherein the distal end of said rigid arm is oriented vertically beneath the geometric center of said planar interface area.” As discussed in the Application, the term “planar interface area” (23, 28) is not automatically synonymous with the rigid interface member. It may represent the area of felt, rubber, or cork

interface having an area smaller than the bottom surface of the rigid interface member (Figs. 2, 12, 13), and may even include embodiments in which the geometric center of the planar interface area is beneath a hollow center area of a wire frame rigid member, not a physical member of the purse hanger (Fig. 18). The concept of a planar interface area distinct from the rigid interface member is not disclosed, or even remotely suggested by Lurie or Omura, thereby distinguishing claim 2 over Lurie, Omura, and their combination. However, assuming, arguendo, that the rigid interface members of Lurie and Omura correspond to the “planar interface area” recited in claim 2, as suggested by the Office Action, the physics of Omura prohibits the distal end of the rigid arm from aligning anywhere under the rigid member, and Lurie does not disclose or suggest the alignment of the distal end of the rigid arm beneath a geometric center of planar interface area. Therefore, even if Lurie and Omura could somehow be combined in a manner suggested by the Examiner, their combination still would not disclose or suggest this element, and therefore, would not establish a prima facie case for obviousness.

For at least these reasons, Appellant respectfully submits that claim 2 stands allowable over Lurie, Omura, and their combination.

DISCUSSION OF DEPENDENT CLAIM 13

Claim 13 recites,

“The purse hanger according to claim 1 wherein the first end of the flexible member is coupled to the distal end of the rigid arm by a swivel joint.”

Within the Office Action, the rejection of claim 13 was based on a correlation between the swivel joint of claim 13, and the ring 7 of Omura.

“Note that the examiner considers the ring 7 of Omura is a swivel joint since the ring 7 of Omura is capable of turning or pivoting around the flexible member and thus the handbag/purse to turn around in a horizontal plane.” (Office Action of January 10, 2008, page 4, lines 1-5).

NO PRIMA FACIE CASE

Appellant respectfully disagrees with the reasons for this rejection. The specification fully comprehends the meaning of a “swivel” member, and further, makes clear that this function allows the purse to “spin,” not simply pivot.

“When a purse 80 hangs from a purse hanger as in FIG. 1, an impact against the purse 80, such as might be imparted from a knee or chair, can impart a torque to the purse which can be transmitted to the interface member 22, dislodging it from the tabletop 21. Such torque, however, can be dissipated by allowing the purse to spin when impacted by a knee or chair. The flexible member 60, therefore, should include at least one swivel member. FIG. 5 shows a purse hanger with a swivel engagement in the upper flex coupling 61, and a flexible member 60 in the form of a swivel ball chain. FIG. 2 shows a purse hanger with swivel engagements for the upper flex coupling 61 and the lower flexible coupling 62, as well as a swivel ball chain for the flexible member. FIG. 6 is an enlarged view of a swivel ball chain that can detachably connect to the upper flexible member coupling 61.”

... Because a high tensile strength core such as steel rope will impart torque when twisted, and will not release the torque through swiveling, embodiments comprising a non-swiveling flexible member such as FIGS. 16 and 17 comprise non-swivelable flexible members 60 connected with swivelable upper flexible member coupling 61 and lower flexible member coupling 62.

(Application, page 13, lines 9-18, 26-30). Accordingly, within the Application, a “swivel” is configured to dissipate torque by “allowing the purse to *spin* when impacted by a knee or chair.” This definition and usage is wholly consistent with the meaning of a “swivel” by various lexical authorities. For example, “swivel” is defined in dictionary.reference.com as follows:

<http://dictionary.reference.com/browse/swivel>
6 dictionary results for: swivel
[Dictionary.com Unabridged \(v 1.1\)](#) - [Cite This Source](#) - [Share This](#)
swiv-el /ˈswiv əl/ Pronunciation Key - Show Spelled Pronunciation[swiv-uh l] Pronunciation Key - Show IPA Pronunciation noun, verb, -eled, -el-ing or (especially British) -elled, -el-ling.
-noun

1. a fastening device that allows the thing fastened to turn around freely upon it, esp. to turn in a full circle.
2. such a device consisting of two parts, each of which turns around independently, as a compound link of a chain, one part of which turns freely in the other by means of a headed pin or the like.

(<http://dictionary.reference.com/browse/swivel>). Moreover, Webster's Revised Unabridged

Dictionary defines a "swivel joint" as:

Swivel joint, a joint, the two pieces composing which turn round, with respect to each other, *on a longitudinal pin or axis, as in a chain, to prevent twisting.*

A verified translation of Omura, submitted to the Examiner on March 20th 2006, is submitted herewith as Exhibit 7. Nothing within Omura discloses or suggests that the connection ring 7 is capable of swiveling (spinning) as defined in the Appellant's disclosure, and required by the plain meaning of the term "swivel joint." On the contrary, an examination of Fig. 1 of Omura discloses that ring 7 passes through a hole in the "iron bar" 3. This configuration is not capable of swiveling, and an application of torsion between the flexible member 8 and the iron bar 3 of Omura, the torsion would be transmitted through ring 7, which would transmit its force against the hole in the iron bar 3, splitting the ring 7 and ripping it out of the hole in the iron bar. This is basic physics. Under no construction of the English language can the Omura ring 7 be construed as a swivel joint as recited in claim 13, and to attribute such features to the Omura ring 7 is wholly unsupported by the Omura disclosure. Lurie does not teach any such element either.

Therefore, even if Lurie and Omura could somehow be combined in a manner suggested by the Examiner, their combination still would not disclose or suggest "wherein the first end of the flexible member is coupled to the distal end of the rigid arm by a swivel joint," as recited in claim 13, and therefore, would not establish a prima facie case for obviousness. For at least these reasons, Applicant submits that claim 13 stands in condition for allowance.

UNEXPECTED RESULTS

As disclosed in the Declaration of Lenna Bauerly Under 37 CFR 1.116(e) and 1.68 (Exhibit 8), the Appellant/Inventor pursued numerous experimental designs to achieve stability of the purse hanger, preventing the purse hanger from being knocked off a table when being brushed or hit. The resistance afforded by cork and rubber contact members on the rigid interface member was not sufficient to achieve stability in normal environmental conditions involving bumping of a purse. Designs bending the arm a significant distance to place the entire purse beneath the table proved impractical in their design and size. The Inventor/Appellant eventually discovered that this design objective could be best achieved by a swivel joint. The experimentation pursued by the inventor demonstrates that the solution to this problem was, in fact, not obvious. The weight of purses, friction imparted by various surfaces on the underside of the rigid interface member, and the friction of a swivel joint, are variables. The experimentation to identify a workable design is prima facie evidence for non-obviousness.

If the Appellant had fully expected from the beginning which design feature would have been the most effective, the Appellant would not have found it necessary to experiment with various designs to see which was most effective.

DISCUSSION OF DEPENDENT CLAIM 14

Claim 14 recites,

“The purse hanger according to claim 1 wherein the second end of the flexible member is coupled to the purse engagement member by a swivel joint.”

The rejection of claim 14 was based on a correlation of the “swivel joint” of claim 14, and ring 9 of Omura. “The examiner also considers the ring 9 of Omura is a swivel joint since the ring 9 of Omura is capable of turning or pivoting allowing the flexible member and thus the handbag/purse

to turn around in a horizontal plane.” (Office Action of January 10, 2008, page 4, lines 8-10).

Applicant respectfully disagrees.

Nothing within Omura discloses or suggests that the connection link 9 at the bottom of the flexible member is capable of swiveling (spinning) as plainly defined in the Appellant’s disclosure, and further, required by the plain meaning of the term “swivel joint.” In fact, it does not appear that the connection link 9 of Omura can even pivot like the upper ring 7 of Omura. On the contrary, an examination of Fig. 1 of Omura suggests that the bottom of the connection link 9 is welded or otherwise rigidly coupled to the flat surface that forms the top portion of the ring loop 8. This configuration is not capable of swiveling, and an application of torsion between the connection link 9 and the ring loop 8 of Omura would be sever the connection link 9 from the ring loop 8. This is basic physics. The Omura connection link 9 does not even appear to be capable of pivoting without breaking off from the ring loop 8. Under no construction of the English language can the Omura connection link 9 be construed as a swivel joint, and to attribute such features to the connection link 9 of Omura is wholly unsupported by the Omura disclosure. Lurie does not teach any such element either.

Therefore, even if Lurie and Omura could somehow be combined in a manner suggested by the Examiner, their combination still would not disclose or suggest a “wherein the second end of the flexible member is coupled to the purse engagement member by a swivel joint”, and therefore, would not establish a prima facie case for obviousness of claim 14. For at least these reasons, Appellant submits that claim 14 stands in condition for allowance.

CLAIM APPENDIX

1 1. A purse hanger comprising:

- 2 a) a rigid interface member defining a planar interface area;
- 3 b) a rigid arm with a proximal segment terminating at a proximal end, a distal
- 4 segment terminating at a distal end, and a central extension disposed between a
- 5 proximal segment and a distal segment, wherein the proximal end is coupled
- 6 with the rigid interface member, the proximal segment being in a orientation
- 7 substantially parallel to the planar interface area and curving into the central
- 8 extension, and wherein the central extension curves into the distal segment
- 9 which extends vertically downward from the central extension when the distal
- 10 end is positioned vertically beneath the planar interface area; and,
- 11 c) a flexible member with a first end coupled to the distal end of the rigid arm,
- 12 and a second end coupled to a purse engagement member.

1 2. The purse hanger according to claim 1 wherein the distal end of said rigid arm is

2 oriented vertically beneath the geometric center of said planar interface area.

1 13. The purse hanger according to claim 1 wherein the first end of the flexible member is

2 coupled to the distal end of the rigid arm by a swivel joint.

1 14. The purse hanger according to claim 1 wherein the second end of the flexible member

2 is coupled to the purse engagement member by a swivel joint.

1 22. In combination:

2 a) a horizontal surface; and

3 b) a purse hanger for hanging a purse from a horizontal surface, the purse hanger
4 comprising:

5 (i) a rigid interface member with a planar interface configured to
6 rest on said horizontal surface;

7 (ii) a rigid arm with a proximal segment terminating at a proximal
8 end, a distal segment terminating at a distal end, and a central
9 extension extending from a the proximal segment through a
10 first bend, and extending into the distal segment through a
11 second bend, the central extension being oriented, at least in
12 part, in a direction different from the proximal segment, and in a
13 direction different from the distal segment, the proximal end
14 being coupled to said rigid interface member, wherein the rigid
15 arm is configured to position the distal segment in a vertical
16 orientation that is vertically aligned beneath the rigid interface
17 member when the rigid interface member is disposed on the
18 horizontal surface.

19 c) a flexible member with first and second ends, said first end of said flexible
20 member secured to said distal end of said rigid arm; and

21 d) a purse engagement member coupled with said second end of said flexible
22 member.

1 37. A purse hanger comprising:

2 a) a rigid interface member with a planar interface area;

3 b) a bent rigid arm with a proximal segment terminating at a proximal
4 end, and a distal segment terminating at a distal end, wherein the proximal segment is
5 coupled to said interface member in an orientation substantially parallel to the planar
6 interface area, the rigid arm being configured such that the distal segment is aligned in
7 a vertical orientation vertically beneath the planar interface area when the planar
8 interface area is horizontal, and wherein the distal end comprises a securement
9 member;

10 c) a flexible member with first and second ends, said first end of said
11 flexible member secured to the securement member; and

12 d) a purse engagement member coupled with said second end of said
13 flexible member.

EVIDENCE APPENDIX

Pursuant to 37 CFR § 41.37(c)(1)(ix), Applicant hereby affirms that each of the referenced Exhibits was recorded in the File History on the dates referenced after each exhibit. The dates entered are in conformity with the dates reflected on private pair.

- | | |
|-----------|---|
| Exhibit 1 | U.S. Patent Application 10/763,426 as Filed. (Entered into the File History January 23, 2004). |
| Exhibit 2 | Office Action, January 10, 2008. (Entered into the File History January 10, 2008). |
| Exhibit 3 | Office Action of Sept. 28, 2007. (Entered into the File History Sept. 28, 2007). |
| Exhibit 4 | British Patent Application GB 2,253,998 to Lurie. (Relied on by Examiner in Office Actions of September 28, 2007 and January 10, 2008, Exhibits 2 and 3). |
| Exhibit 5 | Abstract of Japanese Application 10-113275 JP to Omura. (Relied on by Examiner in Office Actions of September 28, 2007 and January 10, 2008, Exhibits 2 and 3). |
| Exhibit 6 | Japanese Application 10-113275 JP to Omura. (Relied on by Examiner in Office Actions of September 28, 2007 and January 10, 2008, Exhibits 2 and 3). |
| Exhibit 7 | Verified Translation of Japanese Application 10-113275 JP to Omura. (Entered into Record March 20, 2006). |
| Exhibit 8 | Declaration of Lenna Bauerly Under 37 CFR 1.116(e) and 1.68 |

RELATED PROCEEDINGS APPENDIX

None

Respectfully submitted

By: _____

Dated: _____

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